

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARBARA JEAN DENNIS,

Defendant.

Case No. 2:10-CR-00091-KJD-GWF

**ORDER**

Presently before the Court is Defendant's Emergency Motion (#308) to order the F.B.I. to comply with the Magistrate's Order (#302). The F.B.I. filed a response in opposition (#311) to which Defendant replied (#316).

On June 30, 2016, Defendant filed an ex parte motion to compel the F.B.I. to correct misinformation (#292). No response was issued by the F.B.I. because Defendant improperly designated the motion as ex parte, and thus the F.B.I. was not notified of the filing of this motion. The Magistrate subsequently issued an order (#302) on July 21, 2016 granting Defendant's motion and directing the F.B.I. to remove any misinformation from Defendant's file. This order was entered erroneously as the F.B.I. was unaware of Defendant's ex parte motion and thus did not file a response. On August 1, 2016, Defendant filed a subsequent motion (#308) with this Court requesting an order directing the F.B.I. to comply with the Magistrate's July 21, 2016 order. The F.B.I. filed a response and objection to the Magistrate's order (#311) on August 2, 2016. On August 8, 2016, Defendant filed a reply (#316) to the F.B.I.'s response and objection.

Because the F.B.I.'s response contained an objection to the Magistrate's order, the Court conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. § 636(b)(1) and

1 LR IB 3-2. The Court determines that the Defendant's ex parte motion to compel (#292) was  
2 improperly designated as ex parte, the Magistrate's July 21, 2016 order (#302) was issued in error, as  
3 a result, and Defendant's August 1, 2016 motion (#308) is moot because the F.B.I. was unaware of  
4 Defendant's motion to compel (#292).

5 Regarding the misinformation Defendant alleges in her motion to compel (#292), in its reply,  
6 the F.B.I. states that its investigative file in this case includes records from its attempts to locate  
7 Defendant. According to the F.B.I., the documents Defendant seeks to have removed from her file  
8 are the National Crime Information Center (NCIC) histories run by the FBI during its attempts to  
9 locate her. The NCIC search results included a possible alias of "Barbara Anne Dennis," who has a  
10 criminal history that includes California charges for Grand Theft Property in 1983 and a charge for  
11 Insufficient Funds from 1984. The FBI contends that these records do not belong to Defendant as  
12 they are a part of its investigation and any alteration, redaction or removal from these records would  
13 damage the accuracy of the agency's records. Finally, according to the FBI, Defendant's pre-  
14 sentencing investigation report (PSR) does not contain misinformation.

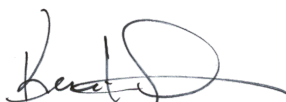
15 **IT IS THEREFORE ORDERED** that Defendant's Ex Parte Motion to Compel the F.B.I. to  
16 Correct Misinformation (#292) is re-designated as a Motion to Compel and remanded to the  
17 Magistrate;

18 **IT IS FURTHER ORDERED** that the Magistrate's July 21, 2016 Order (#302) is vacated;

19 **IT IS FURTHER ORDERED** that Defendant's Emergency Motion (#308) is **denied** as  
20 moot.

21 **IT IS SO ORDERED.**

22 DATED this 8th day of August 2016.

23  
24   
25 \_\_\_\_\_  
26 Kent J. Dawson  
United States District Judge